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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,796	02/26/2002	Shadrack K. Kilemba	SMQ-084	8019
959	7590	03/24/2005	EXAMINER	
LAHIVE & COCKFIELD, LLP. 28 STATE STREET BOSTON, MA 02109			ALAM, SHAHID AL	
			ART UNIT	PAPER NUMBER
			2162	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

HL

Office Action Summary

Application No.

10/085,796

Applicant(s)

KILEMBA ET AL.

Examiner

Shahid Al Alam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7 October 2004 have been fully considered but they are not persuasive for the following reasons.

Applicant argues to withdraw 35 U.S.C. 112, second paragraph rejection, the combination of Bach in view of Gorthy cited by the Examiner fails to teach or suggest all of the limitations of amended independent claim 1 and Applicant alleged that Examiner admitted in his Office action that the Bach reference does not teach or suggest translating the request into one or more command line interface command.

Examiner respectfully disagrees the entire allegation as argued.

In response to Applicants' argument, Applicants' submission of the term "managing items" and explanation given in page 6, should sufficiently overcome 35 U.S.C. 112, second paragraph rejection. However, Applicant failed to show exact location of the specification that support the term "managing items". Applicant should provide pertaining page numbers and corresponding lines to show support of the term.

Therefore, examiner concluded that applicants' failing to clarify the subject matter as discussed and 35 USC 112, second paragraph is proper.

Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and

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broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 162 USPQ 541,550-51 (CCPA 1969).

In response to applicant's argument, to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

"Test of obviousness is not whether features of secondary reference may be bodily incorporated into primary reference's structure, nor whether claimed invention is expressly suggested in any one or all of references; rather, test is what combined teachings of references would have suggested to those of ordinary skill in art."

In re Keller, Terry, and Davies, 208 USPQ 871 (CCPA 1981).

"Reason, suggestion, or motivation to combine two or more prior art references in single invention may come from references themselves, from knowledge of those skilled in art that certain references or disclosures in references are known to be of interest in particular field, or from nature of problem to be solved;" *Pro-Mold and Tool Co. v. Great Lakes Plastics Inc.* U.S. Court of Appeals Federal Circuit 37 USPQ2d 1626 Decided February 7, 1996 Nos. 95-1171, -1181.

"[q]uestion is whether there is something in prior art as whole to suggest desirability, and thus obviousness, of making combination." Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company et al. U.S. Court of Appeals Federal Circuit 221 USPQ 481 Decided Mar. 21, 1984 No 83-1178.

In this case, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine Bach with Gorthy because, when given a command in XML format, the command information in the configuration schema can be used to reformat the XML-based command into a proper CLI format. Once reformatted into a CLI format, the command can be pushed out to the appropriate router. Thus, a system administrator could configure such a router without knowing the specifics of the CLI.

Furthermore, as argued on page 9, "the combination of Bach in view of Gorthy cited by the examiner fails to teach or suggest all of the limitations of amended independent claim 1", but on page 3 of the response, claim 1 clearly shows as original. Applicant again failing to clarify the claim originality.

For the above reasons, Examiner believed that rejection of the last office action was proper.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 17 recite the limitation "managing items" on page 9, lines 5 and 6, page 10, line 36 and page 11, lines 1 and 2, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,141,660 issued to Mark Bach et al. ("Bach") and in view of U.S. Patent Application Publication Number 20030051008 issued to Scott Gorthy et al. ("Gorthy").

With respect to claim 1, Bach teaches a method in an electronic device interfaced with a network (see Figure 1) comprising:

running a management application on the electronic device for managing items (column 17, lines 3 – 5); and

receiving a request at the management application from a web browser client (column 17, lines 3 – 5).

Bach teaches batch processing command or run script, browser request and command line interface as claimed in the claim limitation. However, Bach does not explicitly teach translating the request into one or more command line interface (CLI) command as claimed.

Gorthy teaches claimed translating the request into one or more command line interface (CLI) commands (see Figure 8, page 2, paragraph [0034] and page 4, paragraph [0052]).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine Bach with Gorthy because, when given a command in XML format, the command information in the configuration schema can be used to reformat the XML-based command into a proper CLI format. Once reformatted into a

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CLI format, the command can be pushed out to the appropriate router. Thus, a system administrator could configure such a router without knowing the specifics of the CLI.

As to claim 2, storing the CLI commands that result from the translating (see paragraph [0034]; Gorthy).

As to claim 3, forwarding the CLI commands that result from the translating to a CLI client (see paragraph [0050]; Gorthy).

As to claim 4, the electronic device includes a display and wherein the CLI commands that result from the translating are output on the display (column 15, lines 10 – 12 and Figure 6L; Bach).

The subject matter of claim 5 is rejected in the analysis above in claim 1 and this claim is rejected on that basis.

As to claim 6, storing the CLI commands resulting from the translating of the additional requests in a script (page 2, paragraphs [0034, 0035] and page 3, paragraph 0050]; Gorthy).

As to claim 7, executing the script (column 17, lines 54 – 55; Bach).

As to claim 8, responding to the request independently of the translating (Column 5, lines 37 – 45; Bach).

The subject matters of claim 9 are rejected in the analysis above in claim 1 and this claim is rejected on that basis.

As to claim 10, the management application manages items in a storage area network (SAN) (Figure 1; Bach and Figures 5 and 6; Gorthy).

Claims 11 – 14 are essentially the same as claims 1 – 10 except that they set forth the claimed invention as a method on a web server rather than a method in an electronic device interfaced with a network. Since each and every limitation of claims 11 – 14 has been addressed above in the rejection of claims 1 – 10, claims 11 – 14 are rejected for the same reasons as applied to claims 1 – 10 hereinabove.

Claims 15 – 16 are essentially the same as claims 1 – 10 except that they set forth the claimed invention as an electronic device rather than a method in an electronic device interfaced with a network. Since each and every limitation of claims 15 – 16 has been addressed above in the rejection of claims 1 – 10, claims 15 – 16 are rejected for the same reasons as applied to claims 1 – 10 hereinabove.

Claims 17 – 22 are essentially the same as claims 1 – 10 except that they set forth the claimed invention as a medium rather than a method in an electronic device interfaced with a network. Since each and every limitation of claims 17 – 22 has been addressed above in the rejection of claims 1 – 10, claims 17 – 22 are rejected for the same reasons as applied to claims 1 – 10 hereinabove.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid Al Alam whose telephone number is (571) 272-4030. The examiner can normally be reached on Monday-Thursday 8:00 A.M.- 4:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Shahid Al Alam
Primary Examiner
Art Unit 2162

21 March 2005